संख्या-8/2022/वे0आ0-2-359/दस-2022-E 1644837

प्रेषक,

सरयू प्रसाद मिश्र,
विशेष सचिव,
उत्तर प्रदेश शासन।

सेवा में,

समस्त अपर मुख्य सचिव/प्रमुख सचिव/
सचिव, उ0प्र0 शासन।

वित्त (वेतन आयोग) अनुभाग-2 **लखनऊ : दिनांक : 20 जुलाई, 2022**

विषय:- तदर्थ/दैनिक वेतन/वर्कचार्ज सेवाओं को पेंशन हेतु अर्हकारी सेवा मानने हेतु योजित हो रही विभिन्न रिट याचिकाओं में प्रभावी प्रतिवाद किये जाने के सम्बन्ध में।

महोदय,

वर्तमान में राज्य सरकार के विरूद्ध ऐसे अनेक वाद योजित हो रहे हैं, जिसमें तदर्थ/दैनिक वेतन/वर्कचार्ज की सेवाओं को भी पेंशन के उद्देश्य से अर्हकारी सेवा माने जाने का बिन्दु निहित है तथा इस प्रकार के वादों में राज्य सरकार के प्रतिकूल निर्णय होने के तथ्य सामने आ रहे हैं। इन वादों में अवमाननावाद की कार्यवाहियां प्रचलित हो जाने पर भी इन वादों की वस्तुस्थिति वित्त विभाग के समक्ष तब आ पाती है, जब अवमाननावाद की बाध्यता में रिट कोर्ट के आदेश का अनुपालन कराया जाना बाध्यकारी हो जाता है। अस्तु यह आवश्यक है कि इस प्रकार के प्रकरणों का विधिक प्रतिवाद रिट कोर्ट में ही ठोस आधारों पर किये जाए तथा अवमाननावाद की कार्यवाही को डिफर/स्थगित कराने हेतु आवश्यक कदम उठाये जाए।

2- उपर्युक्त के संदर्भ में आपको अवगत कराना आवश्यक है कि नमामिगंगे तथा ग्रामीण जलापूर्ति विभाग द्वारा समान प्रकार के प्रकरण में मा0 सर्वोच्च न्यायालय में विशेष अनुज्ञा याचिका योजित की जा रही है। उक्त विशेष अनुज्ञा याचिका हेतु एडवोकेट-ऑन-रिकार्ड, श्री तन्मय अग्रवाल द्वारा तैयार कराये गये आधार उपरोक्त प्रस्तर-1 में संदर्भित प्रकरणों के प्रतिवाद के लिये भी अत्यन्त महत्वपूर्ण हैं। अत: यह सम्पूर्ण सामग्री इस पत्र के साथ संलग्न कर आपको इस आशय से प्रेषित की जा रही है कि संदर्भगत प्रकरणों में विधिक प्रतिवाद के लिये इसमें उल्लिखित आधारों तथा इसमें उल्लिखित मा0 सर्वोच्च न्यायालय एवं मा0 उच्च न्यायालय के निर्णयों का उपयोग किया जाय एवं जहां आवश्यक हो इन आदेशों का विस्तृत पाठ्य (Text) इण्टरनेट व अन्य स्रोतों से डाउनलोड कर लिया जाय।

संलग्नक- यथोक्त।

सरयू प्रसाद मिश्र,
विशेष सचिव।

संख्या-8/2022/वे0आ0-2-359(1)/2022, तददिनांक।

प्रतिलिपि प्रमुख सचिव, न्याय विभाग, उ0प्र0 शासन को इस आशय से प्रेषित कि कृपया समस्त राज्य विधि अधिकारियों को अपने स्तर से उपर्युक्तानुसार अवगत कराने का कष्ट करेंगे।

सरयू प्रसाद मिश्र,
विशेष सचिव।

1- यह शासनादेश इलेक्ट्रानिकली जारी किया गया है, अत: इस पर हस्ताक्षर की आवश्यकता नही है ।

2- इस शासनादेश की प्रमाणिकता वेब साइट http://shasanadesh.up.gov.in से सत्यापित की जा सकती है ।

http://shasanadesh.up.gov.in

SYNOPSIS

It is humbly stated that the Petitioners herein have been compelled to approach this Hon'ble Court, assailing the impugned orders herein, passed by the Hon'ble High Court exercising its contempt jurisdiction, which have resulted in a grave miscarriage of justice and which further affects the various Departments and the State as a whole.

The brief facts of the case are that, the Respondent No. 1, 2 & 3 were engaged as work charge employees in the Ground Water Department on 21.10.1980, 15.01.1979 & 06.02.1984 respectively and were subsequently given the post of Field Assistant, strictly on a work charged basis, as no regular post of Field Assistants existed in the Ground Water Department.

That on 18.01.1996 this Hon'ble Court in Writ Petition No. 140/1996 and connected Writ Petitions, directed the State to implement a Scheme to start the process of regularisation of work charge employees working in various Departments of the State of U.P., which was reiterated by this Hon'ble Court in its order dated 26.11.1996 in Writ Petition No. 468/1996, wherein the Petitioners were directed to consider the matter of regularisation of the work charge employees in the Ground Water Department in accordance with the Scheme and directions passed by this Hon'ble Court on 18.01.1996 in Writ Petition No. 140/1996.

In compliance of this Hon'ble Court's orders, the Department of Finance, State of U.P., by G.O. dated 10.03.1997 put forward a Scheme to regularise work charge employees and accorded approval to a total of 501 posts of various cadres in the Ground Water Department.

Accordingly, by G.O. dated 22.05.2002 the post of Field Assistants on a regular basis came into existence for the first time. Subsequently, by order dated 15.05.2004 the services of the respondents herein were regularised on the post of Field Assistants in the Ground Water Department.

It is pertinent to mention that there is no Rule or Act enacted to govern or regularise work charged employees in the post of Field Assistant, therefore, in compliance of this Hon'ble Court's aforementioned orders, the post of regular Field Assistants in the Ground Water Department came into existence for the first time and henceforth started to be governed by the Scheme implemented through the G.O. dated 10.03.1997 and its subsequent amendments dated 25.03.2000, 09.06.2000 and 06.04.2004.

That on 02.12.2000, a Government Order was issued by the Principal Secretary, Finance Department, U.P. with regards to the eligibility of promotional pay scale to a government employee. That, Government Order dated 02.12.2000 provided, inter alia, that any employee, who has completed 14 years of service and has become regular against a post, shall be eligible for promotional pay scale. In paragraph 4 of the said Government Order the terms and conditions for grant of promotional pay scale have been provided. According to the aforesaid, the benefit of the Government Order shall be available only to the post for which a provision is made under the service Rules or Government Orders for promotion upon the next higher post.

The services of the respondents, who were working in the work charge establishment, were regularised in the Ground Water Department on 15.05.2004, Following which the Respondent No. 2 joined as a Field Assistant on 20.05.2004, Respondent No. 1 & 3 joined as Field Assistants on 21.05.2004. That it is pertinent to mention that the respondents herein became eligible for seniority, promotion and increments in pay scale only from 20-21.05.2004.

That the respondents herein, who were working as work charge employees filed Writ-A No. 15308/2008 praying to count their services from the date of initial joining in the work charge establishment, for seniority, for promotion and consequential benefits.

That this Hon'ble Court in ***Punjab State Electricity Board & Ors. Vs. Jagjiwan Ram & Ors., (2009) 3 SCC 661*** , dated 12.02.2009, held that if service of a work-charged employee is regularised under any statue or scheme framed by the employer, then he becomes member of regular establishment from the date of regularisation and his **service in the work charge establishment cannot be clubbed with service in a regular establishment unless a specific provision to that effect is made either in the relevant statue or scheme of regularisation** . The work charged employee cannot claim benefit of such service for the purpose of fixation of seniority in regular cadre, promotion to higher posts, fixation of pay in higher scales, grant of increments etc.

That in a separate case the Hon'ble High Court in *Special Appeal No. 520 of 2011 dated 09.10.2017, State of U.P. & Ors. Vs. Dileep Sharma & Ors* ., held that Government Order dated 02.12.2000 nowhere shows that service rendered in work charge will not count for the purpose of employees concerned for grant of timebound payscale / promotional pay scale. It is

pertinent to mention that the order dated 09.10.2017 was subsequently challenged by the State before this Hon'ble Court in SLP (C) No. 18979/2018.

That the Hon'ble Single Judge in Writ-A No. 15308/2008, filed by the respondents herein, by order dated 03.04.2018 held that the writ petitioners, i.e., the respondents herein, were entitled to get benefit of counting of their work charge service and further directed the State to consider their claims, relying on the decision rendered in *Special Appeal No. 520 of 2011 dated 09.10.2017, State of U.P. & Ors. Vs. Dileep Sharma & Ors* .

That in compliance of the Hon'ble Single Judge's order dated 03.04.18, the Director, Ground Water Department, disposed of the representation of the respondents on 09.05.2018, stating that the decision would be dependent on the outcome of the Special Leave Petition filed by the State against the judgement dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma.

That this Hon'ble Court in **SLP (C) No. 18979/2018** & connected SLPs, which was filed assailing order dated 09.10.2017 passed in 'Dileep Sharma' in Special Appeal No. 520 of 2011, ***directed notice and stayed the order dated 09.10.2017*** .

That the respondents herein filed Contempt Application (C) No. 1477 of 2019, against the Director, Ground Water Department, alleging non-compliance of order dated 03.04.2018 of the Hon'ble High Court, wherein the Hon'ble High Court directed notice on 14.03.2019.

That on 09.05.2019, the Director, Ground Water Department filed his Affidavit of Compliance, bringing on record the order dated 09.05.18, disposing the representation of the respondent stating that the decision would be dependent on the outcome of SLP (C) No. 18979/2018, filed by the State against the judgement, dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma.

That the respondent herein filed his Counter Affidavit to the Affidavit of Compliance, on 23.06.2019, specifically stating that there is no stay order passed by the Hon'ble Supreme Court in SLP (C) No. 18979/2018, filed by the State against the judgement dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma.

That the Hon'ble Contempt Court, by order dated 07.01.2020, found the Alleged Contemnors prima facie guilty of contempt, observing that no stay has been granted to the order of the Hon'ble Single Judge under contempt. Further, the Hon'ble Contempt Court directed notice to the alleged contemnor as to why charges of contempt be not framed.

The alleged contemnor filed Affidavit of Compliance requesting time from the Hon'ble Contempt Court, stating that the Hon'ble Single Judge order was being assailed by the State before the Division Bench of the Hon'ble High Court. The Hon'ble Contempt Court, by order dated 04.02.2020, granted time to State to comply post the order of the Division Bench.

That on 07.09.2020 the Special Appeal filed against Hon'ble Single Judge order, being Special Appeal Defective No. 505 of 2020 was dismissed on the ground of delay.

The State assailed order date 07.09.2020 in Special Appeal Defective No. 505 of 2020, before this Hon'ble Court in SLP (C) No. 413 of 2022, wherein this Hon'ble Court dismissed the SLP, by order dated 31.01.2022, in the facts of the case and left the question of law open.

It is submitted that the State has also preferred a Review Petition against the dismissal of the SLP filed by the State as the High Court vide the Single Judge's order dated 03.04.2018 and the Division Bench's order dated 07.09.2020 have completely disregarded the settled principle of law regarding counting of past services qua regularisation of work charge employees.

That on 02.02.2022 The Director, Ground Water Dept., the alleged contemnor, wrote to the Principal Secretary, Nammami Gange Department referring the claim of the petitioner to the State Government for appropriate direction.

That on 07.02.2022, The Director, Ground Water Dept., the alleged contemnor, in compliance of the Hon'ble High Courts order, disposed of the representation of the petitioner, stating that the relied upon judgement of the Hon'ble High Court in *'Dileep Sharma' Special Appeal No. 520 of 2011 dated 09.08.2017* has been stayed before the Hon'ble Supreme Court on 03.07.2018.

The Director, Ground Water Dept., the alleged contemnor, filed Affidavit of Compliance on 18.02.2022, bringing on record the order dated 02.02.2022 and 07.02.2022 before the Hon'ble Contempt Court.

The Hon'ble Contempt Court, without taking into consideration all the material facts brought on record by way of various Compliance affidavits and the order dated 07.02.2022, framed charges against the alleged contemnor, i.e. the first impugned order herein.

The alleged contemnor filed a Recall Application on 07.03.2022 in Contempt Application (C) No. 1477 of 2019 praying to recall order dated 21.02.2022, as the relied upon judgement of the Hon'ble High Court in *'Dileep Sharma' Special Appeal No. 520 of 2011 dated 09.08.2017* has been stayed before the Supreme Court on 03.07.2018 and is pending adjudication.

That on 09.03.2022 the Hon'ble Contempt Court, held the alleged contemnor guilty for violating the order of the Writ Court and fixed the next date to show cause in respect of quantum of punishment, i.e., the second impugned order herein.

That the alleged contemnor, in view of the orders passed by the Hon'ble Contempt Court on 21.02.2022, framing charges against him and order dated 09.03.2022 finding the alleged contemnor guilty for violating the order of the Writ Court and fixed the next date to show cause in respect of quantum of punishment, was compelled to comply with the order dated 03.04.2018 of the Hon'ble Single Judge, and filed his compliance affidavits on 09.03.2022, stating compliance of the order by paying the promotional increments to the respondents through bank drafts.

The Hon'ble Contempt Court, in view of the compliance affidavits dated 09.03.2022, dismissed the Contempt Petition on 11.03.2022, i.e., the third impugned order herein.

It is submitted that the issue involved before the Hon'ble High Court, was with regard to whether the State and its officers had committed wilful disobedience of the Hon'ble High Court's order dated 03.04.2018, amounting to a contemptuous act in disposing of the prayer of the respondent herein stating that the decision would be dependent on the outcome of the Special Leave Petition filed by the State against the judgement dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma.

It is humbly submitted that the Hon'ble High Court erred in travelling beyond the scope of examination, qua the Contempt Application before the Hon'ble High Court,

instead the Hon'ble Contempt Court acted as a Court of Execution, irrespective of the facts brought on record by the alleged contemnor.

It is humbly submitted that present contempt application and its subsequent proceedings before the Hon'ble High Court turned into the nature of execution proceedings in disguise.

It is humbly submitted that the Hon'ble High Court did not appreciate the ratio laid down by this Hon'ble Court in the case *R.N. Dey & Ors. vs. Bhagyabati Pramanik & Ors. - [(2000) 4 SCC 400]* wherein this Hon'ble Court held that the weapon of initiating contempt proceedings could not be used for execution of a decree or implementation of an order. That is, a Court should not invoke contempt jurisdiction, where alternate remedies are available to secure the terms of an order.

It is humbly submitted that the Hon'ble High Court did not appreciate the ratio laid down by this Hon'ble Court in the case *Sudhir Vasudeva vs. M. George Ravishekaran - [(2014) 3 SCC 373*] wherein, this Court observed that a Court exercising jurisdiction under the Contempt of Courts Act, 1971 must not travel beyond the four corners of the order in relation to which contempt has been alleged. That the Court hearing a contempt petition ought to restrict the scope of its inquiry to such directions which are explicit in the judgment or order of which contempt has been alleged.

It is further submitted that the Hon'ble High Court erred in not considering the fact that the order dated 09.10.2017 in *Special Appeal No. 520 of 2011, dated 09.10.2017, State of U.P. & Ors. Vs. Dileep Sharma & Ors.*, which formed the basis the Hon'ble Single Judge's order dated 03.04.2018, was assailed by the State in in SLP (C) No. 18979/2018 and the order dated 09.10.2017 was stayed by this Hon'ble Court on 03.07.2018.

It is submitted that the Hon'ble High Court erred in not considering the fact that the alleged contemnor complied with the Hon'ble Single Judge's order dated 03.04.2018, firstly, on 09.05.2018 the Director, Ground Water Department, disposed of the representation of the respondents dated 13.04.18, stating that the decision would be dependent on the outcome of SLP (C) No. 18979/2018, assailing order dated 09.08.2017 passed in 'Dileep Sharma' in Special Appeal No. 520 of 2011, pending before this Hon'ble Court.

It is submitted that the Hon'ble High Court erred in not considering the fact that the alleged contemnor complied with the Hon'ble Single Judges order dated 03.04.2018, secondly, on 07.02.2022, wherein The Director disposed of the representation of the respondents stating that the relied upon judgement of the Hon'ble High Court in *'Dileep Sharma' Special Appeal No. 520 of 2011 dated 09.08.2017* has been stayed before the Supreme Court on 03.07.2018.

It is humbly submitted that the orders of the Hon'ble High Court, from the Writ Petition till the Contempt proceedings, are erroneous in law as the Hon'ble Court below never considered the fact that there was no provision of counting services rendered in a work charge establishment after regularisation, for promotion, seniority or increment of pay scale.

It is further submitted that under the Scheme of regularisation of work charge employees in the Ground Water Department, the Government Order dated 06.04.2004 does not specifically provide for clubbing the service in the work charge establishment with service in a regular establishment.

(3)

Furthermore, it is submitted that the Scheme of regularisation of work charge employees in the Ground Water Department, the Government Order dated 06.04.2004 that the pay scale would be applicable from the date of filling up of the regular post so created. (CHECK AFTER TRANSLATION)

That the orders of the Hon'ble High Court go against the ratio laid down by this Hon'ble High Court in ***Punjab State Electricity Board & Ors. Vs. Jagjiwan Ram & Ors., (2009) 3 SCC 661*** , wherein this Hon'ble Court observed as under:

" ..10. The work-charged employees can claim protection under the Industrial Disputes Act or the rights flowing from any particular statute but they cannot be treated on a par with the employees of regular establishment, ***They can neither claim regularisation of service as of right nor can they claim pay scales and other financial benefits on a par with regular employees*** *. If the service of a work-charged employee is regularised under any statute or a scheme framed by the employer,* ***then he becomes member of regular establishment from the date of regularisation . His service in the work charged establishment cannot be clubbed with service in a regular establishment unless a specific provision to that effect is made either in the relevant statute or the scheme of regularisation*** *. In other words, if the statute or scheme under which service of work-charged employee is regularised does not provide for counting of past service, the work-charged employee cannot claim benefit of such service for the purpose of fixation of seniority in the regular cadre, promotion to the higher posts, fixation of pay in the higher scales, grant of increments, etc."*

That the Hon'ble High Court erred in not considering the status of a work charge employee, as explained by this Hon'ble Court in ***Jaswant Singh & Ors. Vs. Union of India & Ors., (1979) 4 SCC 440*** , which is under:

" ..A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services

automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes."

The orders of the Hon'ble High Court go against the ratio laid down by this Hon'ble Court in ***State of Rajasthan Vs. Kunji Raman, (1997) 2 SCC 517,*** which observed as follows:

"...A regular establishment and a work-charged establishment two separate types of are establishments and the persons employed on those establishments thus form two separate and distinct classes. For that reason, if a separate set of rules are framed for the persons engaged on the work-charged establishment and the general rules applicable to persons working on the regular establishment are not made applicable to them, it cannot be said that they are treated in an arbitrary and discriminatory manner by the Government. It is well settled that the Government has the power to frame different rules for different classes of employees...."

That the judgement of the Hon'ble High Court is against the ratio laid down by this Hon'ble Court in the case of **State of Haryana Vs. Haryana Veterinary and A.H.T.S. Association's, 2000 (8) SCC 4** , wherein this Hon'ble Court observed that for calculating service required for giving higher scale of pay and for determination of seniority only regular service rendered by the employee is to be counted and not ad-hoc service.

That the judgement of the Hon'ble High Court is against the ratio laid down by this Hon'ble Court in the case of **State of Punjab Vs. Ashwani Kumar, (2008) 12 SCC 572** , wherein this Hon'ble Court observed as follows:

" 3. The main question that arises for consideration in this appeal is whether the period of ad hoc services rendered by the respondents is to be included for calculating the seniority. This question was considered by a three-Judge Bench of this Court in State of Haryana v. Haryana Veterinary & AHTS Assn.1 wherein this Court took the view that for calculating 8/18 years' service required for giving higher scale of pay and for determination of seniority only regular service rendered by the employee is to be counted and not ad hoc service."

It is submitted that the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of **Uttaranchal Jal Sansthan v. Laxmi Devi Devi, (2009) 7 SCC 205** , wherein this Hon'ble Court observed as follows:

" 29. ... Secondly, before a person can claim a status of a government servant not only his appointment must be made in terms of the recruitment rules, he must otherwise fulfil the criterion therefor. Appointment made in violation of the constitutional scheme is a nullity ***. Rendition of service for a long time, it is well known, does not confer permanency. It is furthermore not a mode of appointment."***

It is submitted that the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of **State of Harayana v. Sita Ram (2013) 16 SCC 677** , wherein this Hon'ble Court held that, regular recruitment in accordance with prescribed procedure or rules framed under proviso to Art. 309 of Constitution or **executive instructions issued** by State under Art. 162 of the Constitution **is a condition for treating particular service as regular service** which is in total contrast to work-charge service, which is always in work-charged establishment not preceded by regular selection. The High Court erred in directing appellant State authorities to treat work-charge service of respondents as regular service for granting ACP benefit, when rules/scheme provided that employee must have rendered "regular service" for a particular period.

It is submitted that the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of ***Rashi Mani Mishra & Ors. Vs. State of U.P. & Ors. 2021 SCC OnLine SC 509,*** wherein this Hon'ble Court categorically observed as follows:

"... substantive appointments can be said to be only when they are appointed and their names are forwarded by the Selection Committee and their services are regularised as per the 1979 Rules. Rule 7 of the 1979 Rules, as such, clinches the issue. It specifically provides that a person appointed under the 1979 Rules shall be entitled to seniority only from the date of order of appointment after selection in accordance with the 1979 Rules.... ... . that the services rendered by the ad hoc appointees prior to their regularisation as per the 1979 Rules shall not be counted for the purpose of seniority, vis-à-vis, the direct recruits who were appointed prior to 1989 and they are not entitled to seniority from the date of their initial appointment in the year 1985. ...."

It is further submitted that the Hon'ble High Court erred in farming charges and forcing the alleged contemnor to execute the order of Hon'ble Single Judge, without taking into consideration the various Affidavits of Compliance, filed from time to time, by the alleged contemnors, bringing all the facts on records with regards to the disposal of the representation of the respondents herein, as well as the stay order granted by this Hon'ble Court in 'Dileep Sharma' case, and, completely disregarding the settled principle of law regarding counting of past services qua regularisation of work charge employees.

It is submitted that the State has also preferred a Review Petition against the dismissal of the SLP filed by the State as the High Court vide the Single Judge's order dated 03.04.2018 and the Division Bench's order dated 07.09.2020 have completely disregarded the settled principle of law regarding counting of past services qua regularisation of work charge employees.

LIST OF DATES

15.01.1979 The Respondent No. 2 herein was engaged as a Gauge Reader in the Ground Water Department, on a work charge basis.

21.10.1980 The Respondent No. 1 herein was engaged as a Gauge Reader in the Ground Water Department, on a work charge basis.

1983 The Respondent No.1 & 2 were engaged as Field Assistants in the Ground Water Department, on a work charge basis.

06.02.1984 The Respondent No. 3 herein was engaged as a Field Assistant in the Ground Water Department, on a work charge basis.

18.01.1996 That this Hon'ble Court, in Writ Petition No. 140/1989 and connected Writ Petitions, directed the State to implement a Scheme for regularisation of work charge employees working in various Departments of the State of U.P. (True typed copy of order dated 18.01.1996 in Writ Petition No. 140/1989 is **ANNEXURE P-1, pg.____to_____**)

26.11.1996 That this Hon'ble Court, in Writ Petition No. 468/1996, relating to work charge employees in the Ground Water Department, directed the State to consider the matter of regularisation. (True typed copy of order dated 26.11.1996 in Writ Petition No. 468/1996 is **ANNEXURE P-2, pg.____to_____**)

10.03.1997 That in compliance of this Hon'ble Court's order, the State of U.P., accorded approval to a total of 501 posts of various cadres, under a Scheme, in the Ground Water Department, to be filled up from time to time as per seniority. (True translated copy of G.O. dated 10.03.1997 is **ANNEXURE P-3, pg.____to_____**)

10.03.2000 That during the 1 st batch of regularisation, a total of 90 posts were created of different cadres for regularisation. It is pertinent to mention that the post of Field Assistants was not part of the aforesaid 90 posts.

25.03.2000 That under the regularisation Scheme, by G.O. dated 25.03.2000, the eligibility for regularisation to the post of Field Assistants in the Ground Water Department was provided. (True translated copy of G.O. dated 25.03.2000 is **ANNEXURE P-4, pg.____to_____**)

09.06.2000 That under the regularisation Scheme, by G.O. dated 09.06.2000, further provided the reservation policy (True translated copy of G.O. dated 09.06.2000 is **ANNEXURE P-5, pg.____to_____**)

02.12.2000 That a Government Order dated 02.12.2000 was issued which provided that any employee, who has completed 14 years of service and has become regular against a post, shall be eligible for promotional pay scale. (True translated copy of G.O. dated 02.12.2000 is **ANNEXURE P-6, pg.____to_____**)

22.05.2002 That 88 new posts of various cadres were created in the Ground Water Department, out of which 41 post were for Field Assistants. It is pertinent to mention that the Respondents herein could not find place in the said 41 post as there were other employees who were seniors to them at that point of time.
06.04.2004 That 323 new posts of various cadres were created in the Ground Water Department, out of which 72 posts were for Field Assistants. It was specifically mentioned therein that the approval for creation of post was granted and that the pay scale would be applicable from the date of filling up of the post so created. (True translated copy of G.O. dated 06.04.2004 is **ANNEXURE P-7, pg._____to_____**)
24.04.2004 A Committee was set up by the Ground Water Department, wherein the Committee recommended the regularisation of the respondents herein as Field Assistants in the Ground Water Department.
15.05.2004 That the approval was accorded to the recommendation of the Committee for regularisation.
20.05.2004 The Respondent No. 2 joined as a Field Assistant on 20.05.2004,
21.05.2004 Respondent No. 1 & 3 joined as Field Assistants on 21.05.2004. That it is pertinent to mention that the respondents herein became eligible for seniority, promotion and increments in pay scale only from 20-21.05.2004.
2008 The respondents herein filed Writ-A No. 15308/2008 praying to count their services from work charge establishment for seniority, for promotion and consequential benefits.
04.05.2010 That a G.O. dated 04.05.2010 was issued by the State of U.P., with regards to eligibility of Assured Career Promotion (ACP) of various employees upon competition of 10/16/26 years of regular service in the said post. (True translated copy of G.O. dated 04.05.2010 is **ANNEXURE P-8, pg._____to_____**)
20.05.2014 The Respondent No. 2 received his ACP, upon completion of 10 years of regular service as a Field Assistant, from the date of his regularisation.
21.05.2014 The Respondent No. 1 & 3 received their ACP, upon completion of 10 years of regular service as a Field Assistants, from the date of their regularisation.
31.07.2014 The respondent no. 2 superannuated from his service. It is pertinent to mention that upon superannuation he received all retiral benefits including regular pension.
31.10.2016 The respondent no. 1 & 3 superannuated from service. It is pertinent to mention that upon superannuation they received all retiral benefits including regular pension.
09.10.2017 That in a separate case the Hon'ble High Court in *Special Appeal No. 520 of 2011, dated 09.10.2017, State of U.P. & Ors. Vs. Dileep Sharma & Ors.* , held that Government Order dated 02.12.2000 nowhere shows that service rendered in work charge will not count for

the purpose of employees concerned for grant of timebound payscale / promotional pay scale. (True copy of order dated 09.10.2017 in Special Appeal No. 520 of 2011 is **ANNEXURE P-9, pg._____to_____**)

03.04.2018 That the Hon'ble Single Judge in Writ-A No. 15308/2008 held that the writ petitioners, i.e., the respondents herein, were entitled to get benefit of counting of their work charge service and further directed the State to consider their claims, relying on the decision rendered in *Special Appeal No. 520 of 2011 dated 09.08.2017, State of U.P. & Ors. Vs. Dileep Sharma & Ors.* (True copy of order dated 03.04.2018 in Writ-A No. 15308/2008 is **ANNEXURE P-10, pg._____to_____**)

09.05.2018 In compliance of the Hon'ble Single Judges order dated 03.04.18, the Director, Ground Water Department, disposed of the representation of the respondents dated 13.04.18, stating that the decision would be dependent on the outcome of the Special Leave Petition filed by the State against the judgement dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma. (True translated copy of order dated 09.05.2018 is **ANNEXURE P-11, pg._____to_____**)

03.07.2018 That this Hon'ble Court in SLP (C) Diary No. 18979/2018 & connected SLPs, which was filed assailing order dated 09.08.2017 passed in 'Dileep Sharma' in Special Appeal No. 520 of 2011, directed notice and stayed the order dated 09.08.2017. (True copy of order dated 03.07.2018 in SLP (C) Diary No. 18979/2018 is **ANNEXURE P-12, pg._____to_____**)

14.03.2019 That the respondents herein filed Contempt Application (C) No. 1477 of 2019, against the Director, Ground Water Department.

09.05.2019 The Director, Ground Water Department filed his Affidavit of Compliance. (True copy of Affidavit of Compliance dated 09.05.2019 is **ANNEXURE P-13, pg._____to_____**)

23.06.2019 The respondent-contempt petitioner filed his Counter Affidavit to the Affidavit of Compliance, specifically stating that there is no stay order passed by the Hon'ble Supreme Court in SLP (C) Diary No. 18979/2018, filed by the State against the judgement dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma. (True typed copy of Counter Affidavit dated 23.06.2019 is **ANNEXURE P-14, pg._____to_____**)

07.01.2020 That in Contempt Application (C) No. 1477 of 2019, the Hon'ble Contempt Court found the Alleged Contemnors prima facie guilty of contempt and directed notice for framing of charges. (True copy of order dated 07.01.2020 in Contempt Application (C) No. 1477 of 2019 is **ANNEXURE P-15, pg._____to_____**)

03.02.2020 The alleged contemnor filed Affidavit of Compliance requesting time from the Hon'ble Contempt Court, as the Hon'ble Single Judge order was being assailed by the State before the Division Bench of the Hon'ble High Court.

04.02.2020 The Hon'ble Contempt Court granted time to State to comply post the order of the Division Bench.

07.09.2020 The Special Appeal filed against Hon'ble Single Judge order, being Special Appeal Defective No. 505 of 2020 was dismissed on the ground of delay. (True copy of order dated 07.09.2020 in Special Appeal Defective No. 505 of 2020 is **ANNEXURE P-16, pg._____to_____**)

31.01.2022 That this Hon'ble Court dismissed SLP (C) No. 413/2022 in the facts of the case and left the question of law open. (True copy of order dated 31.01.2022 in SLP (C) No. 413/2022 is **ANNEXURE P-17, pg._____to_____**)

02.02.2022 The Director, Ground Water Dept., the alleged contemnor, wrote to the Principal Secretary, Nammami Gange Department referring the claim of the petitioner to the State Government for appropriate direction.

07.02.2022 The Director disposed of the representation of the respondents stating that the relied upon judgement of the Hon'ble High Court in *'Dileep Sharma' Special Appeal No. 520 of 2011 dated 09.08.2017* has been stayed before the Supreme Court on 03.07.2018. (True translated copy of order dated 07.02.2022 is **ANNEXURE P-18, pg._____to_____**)

18.02.2022 Affidavit of Compliance was filed by the alleged contemnor, bringing on record the order dated 02.02.2022 and 07.02.2022. (True copy of Affidavit of Compliance dated 18.02.2022 is **ANNEXURE P-19, pg._____to_____**)

21.02.2022 The Hon'ble Contempt Court, without taking into consideration the order dated 07.02.2022, framed charges against the alleged contemnor. **(IMPUGNED ORDER)**

07.03.2022 The alleged contemnor filed a Recall Application in Contempt Application (C) No. 1477 of 2019 praying to recall order dated 21.02.2022 as the relied upon judgement of the Hon'ble High Court in *'Dileep Sharma' Special Appeal No. 520 of 2011 dated 09.08.2017* has been stayed before the Supreme Court on 03.07.2018 and is pending adjudication. (True copy of recall application dated 07.03.2022 in Contempt Application (C) No. 1477 of 2019 is **ANNEXURE P-20, pg._____to_____**)

09.03.2022 That the Hon'ble Contempt Court, held the alleged contemnor guilty for violating the order of the Writ Court and fixed the next date to show cause in respect of quantum of punishment. **(IMPUGNED ORDER)**

11.03.2022 The alleged contemnor filed the Final Compliance Affidavit on 09.03.2022 before the Hon'ble Contempt Court stating compliance of order of the Writ Court, in view of which the Contempt Petition was dismissed on 11.03.2022. **(IMPUGNED ORDER)**

__.__.2022 Hence, the present Special Leave Petition.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
[S.C.R., ORDER XXI RULE 3 (1) (a)]
(Under Article 136 of the Constitution of India)

SPECIAL LEAVE PETITION (CIVIL) NO. OF 2022
(Arising out of interim order dated 21.02.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019)
(WITH PRAYER FOR INTERIM RELIEF)

BETWEEN POSITION OF THE PARTIES
In the In this
Hon'ble Hon'ble
High Court Supreme Court

1. State of Uttar Pradesh,
   Through Secretary,
   Minor Irrigation Department,
   Lucknow, U.P. Not a Party Petitioner
   No.1
2. Director,
   Ground Water Department
   9 th Floor, Indira Bhawan,
   Lucknow, U.P. Not a Party Petitioner
   No.2
3. Executive Engineer,
   Ground Water Department
   Kanpur Division,
   117/143/H-2, Pandu Nagar,
   Kanpur, U.P. Not a Party Petitioner No.3

AND

1. Shashi Kumar Singh
   S/o Late Brijendra Pratap Singh
   R/o Village Nadhiya Khurd,
   P.O. Nadhiya Bujurg,
   Kanpur Nagar, U.P. Petitioner Respondent No. 1
2. Brij Mohan Sharma
   S/o Late R.S. Sharma
   R/o 424/6, Shastri Nagar Colony,
   Kanpur Nagar, U.P. Petitioner Respondent No. 2
3. Rakesh Chandra Rajpoot
   S/o Late Chhote Lal

R/o 116/1098, Ganesh Nagar

Rawatpur, Kanpur Nagar, U.P. Petitioner Respondent No. 3

AND

SPECIAL LEAVE PETITION (CIVIL) NO. OF 2022
(Arising out of interim order dated 09.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019)
(WITH PRAYER FOR INTERIM RELIEF)

BETWEEN POSITION OF THE PARTIES

In the Hon'ble High Court	**In this Hon'ble Supreme Court**
1. State of Uttar Pradesh, Through Secretary, Minor Irrigation Department, Lucknow, U.P.	Not a Party Petitioner No.1
2. Director, Ground Water Department 9 th Floor, Indira Bhawan, Lucknow, U.P.	Not a Party Petitioner No.2
3. Executive Engineer, Ground Water Department Kanpur Division, 117/143/H-2, Pandu Nagar, Kanpur, U.P.	Not a Party Petitioner No.3

AND

1. Shashi Kumar Singh

S/o Late Brijendra Pratap Singh

R/o Village Nadhiya Khurd,

P.O. Nadhiya Bujurg,

Kanpur Nagar, U.P. Petitioner Respondent No. 1

2. Brij Mohan Sharma
S/o Late R.S. Sharma
R/o 424/6, Shastri Nagar Colony,
Kanpur Nagar, U.P. Petitioner Respondent No. 2

3. Rakesh Chandra Rajpoot
S/o Late Chhote Lal
R/o 116/1098, Ganesh Nagar
Rawatpur, Kanpur Nagar, U.P. Petitioner Respondent No. 3

AND

SPECIAL LEAVE PETITION (CIVIL) NO. OF 2022
(Arising out of final judgment and order dated 11.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019)
(WITH PRAYER FOR INTERIM RELIEF)

BETWEEN POSITION OF THE PARTIES

In the Hon'ble High Court	**In this Hon'ble Supreme Court**
1. State of Uttar Pradesh, Through Secretary, Minor Irrigation Department, Lucknow, U.P.	Not a Party Petitioner No.1
2. Director, Ground Water Department 9 th Floor, Indira Bhawan, Lucknow, U.P.	Not a Party Petitioner No.2
3. Executive Engineer, Ground Water Department Kanpur Division,	

117/143/H-2, Pandu Nagar,
Kanpur, U.P. Not a Party Petitioner No.3

AND

1. Shashi Kumar Singh
S/o Late Brijendra Pratap Singh
R/o Village Nadhiya Khurd,
P.O. Nadhiya Bujurg,
Kanpur Nagar, U.P. Petitioner Respondent No. 1
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S/o Late R.S. Sharma
R/o 424/6, Shastri Nagar Colony,
Kanpur Nagar, U.P. Petitioner Respondent No. 2
3. Rakesh Chandra Rajpoot
S/o Late Chhote Lal
R/o 116/1098, Ganesh Nagar
Rawatpur, Kanpur Nagar, U.P. Petitioner Respondent No. 3

TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS OTHER COMPANION JUDGES
OF THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. Petitioner-State of UP is filing the present petition seeking special leave to appeal against the interim order dated 21.02.2022, interim order dated 09.03.2022 and final judgment and order dated 11.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019 .

   1A. That no writ appeal or letters patent appeal/petition lies or is maintainable against interim order dated 21.02.2022, interim order dated 09.03.2022 and final judgment and order dated 11.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019.

   1B. That the Petitioners-State of UP has filed an application for permission to file the present Special Leave Petition, as the State was not a party in the Contempt Petition filed by the Respondents herein in Contempt Application

(C) No. 1477 of 2019 before the Hon'ble High Court of Judicature at Allahabad.

2. QUESTIONS OF LAW

The following substantial questions of law arise for the consideration of this Hon'ble Court:

I. Whether, the Hon'ble High Court erred in adjudicating the Contempt Application without considering the settled principle of law?

II. Whether the Hon'ble High Court erred in adjudicating the Contempt Application without going through the facts of this particular case or the documents submitted before the Hon'ble Court?

III. Whether the issue involved before the Hon'ble High Court, was with regard to whether the State and its officers had committed wilful disobedience of the Hon'ble High Court's order dated 03.04.2018, amounting to a contemptuous act in disposing of the prayer of the respondent herein stating that the decision would be dependent on the outcome of the Special Leave Petition filed by the State against the judgement dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma ?

IV. Whether the Hon'ble High Court erred in travelling beyond the scope of examination, qua the Contempt Application before the Hon'ble High Court, instead the Hon'ble Contempt Court acted as a Court of Execution, irrespective of the facts brought on record by the alleged contemnor?

V. Whether the that present contempt application and its subsequent proceedings before the Hon'ble High Court turned into the nature of execution proceedings in disguise?

VI. Whether the Hon'ble High Court failed to consider appreciate the ratio laid down by this Hon'ble Court in the case *R.N. Dey & Ors. vs. Bhagyabati Pramanik & Ors. – [(2000) 4 SCC 400]* wherein this Hon'ble Court held that the weapon of initiating contempt proceedings could not be used for execution of a decree or implementation of an order. That is, a Court should not invoke contempt jurisdiction, where alternate remedies are available to secure the terms of an order ?

VII. Whether the Hon'ble High Court failed to appreciate the ratio laid down by this Hon'ble Court in the case *Sudhir Vasudeva vs. M. George Ravishekaran – [(2014) 3 SCC 373*] wherein, this Court observed that a Court exercising jurisdiction under the Contempt of Courts Act, 1971 must not travel beyond the four corners of the order in relation to which contempt has been alleged. That the Court hearing a contempt petition ought to restrict the scope of its inquiry to such directions which are explicit in the judgment or order of which contempt has been alleged?

VIII. Whether the Hon'ble High Court erred in not considering the fact that the order dated 09.10.2017 in *Special Appeal No. 520 of 2011, dated 09.10.2017, State of U.P. & Ors. Vs. Dileep Sharma & Ors.,* which formed the basis the Hon'ble Single Judge's order dated 03.04.2018, was assailed by the State in in SLP (C) No. 18979/2018 and the order dated 09.10.2017 was stayed by this Hon'ble Court on 03.07.2018?

IX. Whether the Hon'ble High Court erred in not considering the fact that the alleged contemnor complied with the Hon'ble Single Judge's order dated 03.04.2018, firstly, on 09.05.2018 the Director, Ground Water Department, disposed of the representation of the respondents dated 13.04.18, stating that the decision would be dependent on the outcome of SLP (C) No. 18979/2018, assailing order dated 09.08.2017 passed in 'Dileep Sharma' in Special Appeal No. 520 of 2011, pending before this Hon'ble Court?

X. Whether the Hon'ble High Court erred in not considering the fact that the alleged contemnor complied with the Hon'ble Single Judges order dated 03.04.2018, secondly, on 07.02.2022, wherein The Director disposed of the representation of the respondents stating that the relied upon judgement of the Hon'ble High Court in *'Dileep Sharma' Special Appeal No. 520 of 2011 dated 09.08.2017* has been stayed before the Supreme Court on 03.07.2018?

XI. Whether the orders of the Hon'ble High Court, from the Writ Petition till the Contempt proceedings, are erroneous in law as the Hon'ble Court below never considered the fact that there was no provision of counting services rendered in a work charge establishment after regularisation, for promotion, seniority or increment of pay scale?

XII. Whether the Hon'ble High Court erred in not considering the fact that under the Scheme of regularisation of work charge employees in the Ground Water Department, the Government Order dated 06.04.2004 does not specifically provide for clubbing the service in the work charge establishment with service in a regular establishment?

XIII. Whether the Hon'ble High Court erred in not considering the factthat the Scheme of regularisation of work charge employees in the Ground Water Department, the Government Order dated 06.04.2004 that the pay scale would be applicable from the date of filling up of the regular post so created?

XIV. Whether the the orders of the Hon'ble High Court go against the ratio laid down by this Hon'ble High Court in Punjab State Electricity Board & Ors. Vs. Jagjiwan Ram & Ors., (2009) 3 SCC 661?

XV. Whether the Hon'ble High Court erred in not considering the status of a work charge employee, as explained by this Hon'ble Court in Jaswant Singh & Ors. Vs. Union of India & Ors., (1979) 4 SCC 440?

XVI. Whether the orders of the Hon'ble High Court go against the ratio laid down by this Hon'ble Court in State of Rajasthan Vs. Kunji Raman, (1997) 2 SCC 517?

XVII. Whether the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of Uttaranchal Jal Sansthan v. Laxmi Devi Devi, (2009) 7 SCC 205?

XVIII. Whether the judgement of the Hon'ble High Court is against the ratio laid down by this Hon'ble Court in the case of State of Haryana Vs. Haryana Veterinary and A.H.T.S. Associations, 2000 (8) SCC 4, wherein this Hon'ble Court observed that for calculating service required for giving higher scale of pay and for determination of seniority only regular service rendered by the employee is to be counted and not ad-hoc service?

XIX. Whether the judgement of the Hon'ble High Court is against the ratio laid down by this Hon'ble Court in the case of State of Punjab Vs. Ashwani Kumar, (2008) 12 SCC 572?

XX. Whether the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of State of Harayana v. Sita Ram (2013) 16 SCC 677?

XXI. Whether the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of Rashi Mani Mishra & Ors. Vs. State of U.P. & Ors. 2021 SCC OnLine SC 509?

XXII. Whether the Hon'ble High Court erred in farming charges and forcing the alleged contemnor to execute the order of Hon'ble Single Judge, without taking into consideration the various Affidavits of Compliance, filed from time to time, by the alleged contemnors, bringing all the facts on records with regards to the disposal of the representation of the respondents herein, as well as the stay order granted by this Hon'ble Court in 'Dileep Sharma' case, and, completely disregarding the settled principle of law regarding counting of past services qua regularisation of work charge employees?

3. **DECLARATION UNDER RULE 3 (2)**

The petitioner states that no other petition has been filed seeking special leave to appeal against the interim order dated 21.02.2022, interim order dated 09.03.2022 and final judgment and order dated 11.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019.

4. **DECLARATION UNDER RULE 5**

That the Annexure (s) P-1 to P- produced along with this Special Leave Petition are true copies of the pleadings/documents which formed part of the record of the case in the Hon'ble Court below against whose order the leave to appeal is sought in this Petition.

5. **GROUNDS**

That the present special leave to appeal is being sought on the following grounds:

A. Because, the Hon'ble High Court erred in adjudicating the Contempt Application without considering the settled principle of law?

B. Because, the Hon'ble High Court erred in adjudicating the Contempt Application without going through the facts of this particular case or the documents submitted before the Hon'ble Court.

C. Because the issue involved before the Hon'ble High Court, was with regard to whether the State and its officers had committed wilful disobedience of the Hon'ble High Court's order dated 03.04.2018, amounting to a contemptuous act in disposing of the prayer of the respondent herein stating that the decision would be dependent on the outcome of the Special Leave Petition filed by the State against the judgement dated 09.10.2017 in Special Appeal No. 520 of 2011- Dileep Sharma.

D. Because the Hon'ble High Court erred in travelling beyond the scope of examination, qua the Contempt Application before the Hon'ble High Court, instead the Hon'ble Contempt Court acted as a Court of Execution, irrespective of the facts brought on record by the alleged contemnor.

E. Because the that present contempt application and its subsequent proceedings before the Hon'ble High Court turned into the nature of execution proceedings in disguise.

F. Because the Hon'ble High Court failed to consider appreciate the ratio laid down by this Hon'ble Court in the case R.N. Dey & Ors. vs. Bhagyabati Pramanik & Ors. – [(2000) 4 SCC 400] wherein this Hon'ble Court held that the weapon of initiating contempt proceedings could not be used for execution of a decree or implementation of an order. That is, a Court should not invoke contempt jurisdiction, where alternate remedies are available to secure the terms of an order.

G. Because the Hon'ble High Court failed to appreciate the ratio laid down by this Hon'ble Court in the case Sudhir Vasudeva vs. M. George Ravishekaran – [(2014) 3 SCC 373] wherein, this Court observed that a Court exercising jurisdiction under the Contempt of Courts Act, 1971 must not travel beyond the four corners of the order in relation to which contempt has been alleged.

That the Court hearing a contempt petition ought to restrict the scope of its inquiry to such directions which are explicit in the judgment or order of which contempt has been alleged.

H. Because the Hon'ble High Court erred in not considering the fact that the order dated 09.10.2017 in Special Appeal No. 520 of 2011, dated 09.10.2017, State of U.P. & Ors. Vs. Dileep Sharma & Ors., which formed the basis the Hon'ble Single Judge's order dated 03.04.2018, was assailed by the State in in SLP (C) No. 18979/2018 and the order dated 09.10.2017 was stayed by this Hon'ble Court on 03.07.2018.

I. Because the Hon'ble High Court erred in not considering the fact that the alleged contemnor complied with the Hon'ble Single Judge's order dated 03.04.2018, firstly, on 09.05.2018 the Director, Ground Water Department, disposed of the representation of the respondents dated 13.04.18, stating that the decision would be dependent on the outcome of SLP (C) No. 18979/2018, assailing order dated 09.08.2017 passed in 'Dileep Sharma' in Special Appeal No. 520 of 2011, pending before this Hon'ble Court.

J. Because the Hon'ble High Court erred in not considering the fact that the alleged contemnor complied with the Hon'ble Single Judges order dated 03.04.2018, secondly, on 07.02.2022, wherein The Director disposed of the representation of the respondents stating that the relied upon judgement of the Hon'ble High Court in 'Dileep Sharma' Special Appeal No. 520 of 2011 dated 09.08.2017 has been stayed before the Supreme Court on 03.07.2018.

K. Because the orders of the Hon'ble High Court, from the Writ Petition till the Contempt proceedings, are erroneous in law as the Hon'ble Court below never considered the fact that there was no provision of counting services rendered in a work charge establishment after regularisation, for promotion, seniority or increment of pay scale.

L. Because under the Scheme of regularisation of work charge employees in the Ground Water Department, the Government Order dated 06.04.2004 does not specifically provide for clubbing the service in the work charge establishment with service in a regular establishment.

M. Because the Scheme of regularisation of work charge employees in the Ground Water Department, the Government Order dated 06.04.2004 that the pay scale would be applicable from the date of filling up of the regular post so created.

N. Because the orders of the Hon'ble High Court go against the ratio laid down by this Hon'ble High Court in Punjab State Electricity Board & Ors. Vs. Jagjiwan Ram & Ors., (2009) 3 SCC 661.

O. Because the Hon'ble High Court erred in not considering the status of a work charge employee, as explained by this Hon'ble Court in Jaswant Singh & Ors. Vs. Union of India & Ors., (1979) 4 SCC 440.

P. Because the orders of the Hon'ble High Court go against the ratio laid down by this Hon'ble Court in State of Rajasthan Vs. Kunji Raman, (1997) 2 SCC 517.

Q. Because the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of Uttaranchal Jal Sansthan v. Laxmi Devi Devi, (2009) 7 SCC 205.

R. Because the judgement of the Hon'ble High Court is against the ratio laid down by this Hon'ble Court in the case of State of Haryana Vs. Haryana Veterinary and A.H.T.S. Associations, 2000 (8) SCC 4, wherein this Hon'ble Court observed that for calculating service required for giving higher scale of pay and for determination of seniority only regular service rendered by the employee is to be counted and not ad-hoc service.

S. Because the judgement of the Hon'ble High Court is against the ratio laid down by this Hon'ble Court in the case of State of Punjab Vs. Ashwani Kumar, (2008) 12 SCC 572.

T. Because the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of State of Harayana v. Sita Ram (2013) 16 SCC 677.

U. Because the judgement of the Hon'ble High Court is against the principles enshrined by this Hon'ble Court in the case of Rashi Mani Mishra & Ors. Vs. State of U.P. & Ors. 2021 SCC OnLine SC 509.

V. Because the Hon'ble High Court erred in farming charges and forcing the alleged contemnor to execute the order of Hon'ble Single Judge, without taking into consideration the various Affidavits of Compliance, filed from time to time, by the alleged contemnors, bringing all the facts on records with regards to the disposal of the representation of the respondents herein, as well as the stay order granted by this Hon'ble Court in 'Dileep Sharma' case, and, completely disregarding the settled principle of law regarding counting of past services qua regularisation of work charge employees.

6. **GROUNDS FOR INTERIM RELIEF:**

The Petitioner submits the following ground for interim relief: -

a. In view of the facts stated in the Synopsis and list of dates and the grounds of challenge as set out in para 5 above, petitioner has a prima facie case in their favour.

b. The balance of convenience is in favour of the petitioner

c. It is necessary in the interest of justice that if the impugned order dated 21.02.2022 and 09.03.2022 and 11.03.2022 are not stayed, the petitioners shall suffer grave and irreparable loss.

7. **MAIN PRAYER**

It is therefore, most respectfully prayed that Your Lordships may graciously be pleased to:

a. Grant special leave to appeal against the of interim order dated 21.02.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019 .

b. Grant special leave to appeal against the of interim order dated 09.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019

c. Grant special leave to appeal against the final judgment and order dated 11.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019.

d. Pass such other order(s) as this Hon'ble Court deems fit.

8. **PRAYER FOR INTERIM RELIEF**

It is therefore, most respectfully prayed that Your Lordships may graciously be pleased to:

a. grant ex parte ad interim stay of the operation of the interim order dated 21.02.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019.

b. grant ex parte ad interim stay of the operation of the interim order dated 09.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019.

c. grant ex parte ad interim stay of the operation of the final judgment and order dated 11.03.2022 passed by the Hon'ble High Court of Judicature at Allahabad, in Contempt Application (C) No. 1477 of 2019

d. make the order absolute in terms of prayer a), b) and c) supra after notice to the Respondent.

e. Pass such other order or further orders as may be deemed fit and proper in the facts and circumstances of the case.

FILED BY:

(TANMAYA AGARWAL)